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Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of February 24 through February 28, 1997

During the week of February 24 through February 28, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585-0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: March 7, 1997.

George B. Breznay,
Director, Office of Hearings and Appeals.

Decision List No. 22; Week of February 24 Through February 28, 1997

Appeals

Fried, Frank, Harris, Shriver & Jacobson,
2/24/97, VFA-0263

Fried, Frank, Harris, Shriver & Jacobson (Fried) filed an Appeal from a determination by the DOE's

Albuquerque Operations Office (AOO). In that determination, the AOO partially granted a request for information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by the DOE in 10 CFR Part 1004. In considering the Appeal, the DOE confirmed that the AOO mistakenly did not include a copy of a contract modification when it released a copy of the contract. Accordingly, the DOE ordered the AOO to release a copy of the contract modification. The DOE also found that, since Section 821 of the National Defense Authorization Act does not bar the release of proposal information that has been incorporated into a contract, Exemption 3 does not apply in this case as a reason to withhold the proposal in its entirety. Therefore, the DOE remanded this case to the AOO to release the proposal information incorporated into the awarded contract or to provide a detailed justification for withholding.

Lois Blanche Vaughan, 2/25/97, VFA-0264

The DOE issued a Decision and Order denying a Freedom of Information Act Appeal that was filed by Lois B. Vaughan. In her Appeal, Ms. Vaughan challenged the adequacy of the search for responsive documents that was conducted by the DOE's Oak Ridge Operations Office (DOE/OR) in response to Ms. Vaughan's FOIA request. Ms. Vaughan requested documents dated from 1948 through 1968. In the Decision, the DOE found that DOE/OR conducted a reasonable search for responsive documents. Accordingly, the Appeal was denied.

Martha J. McNeely, 2/25/97, VFA-0265

Martha J. McNeely filed an Appeal from a determination issued to her by the DOE's Richland Operations Office (Richland). In her Appeal, Ms. McNeely

asserted that Richland had failed to conduct an adequate search pursuant to the Privacy Act for her medical and dental records. The DOE determined that Richland had performed an adequate search. However, since Ms. McNeely provided additional information in her Appeal, in which she claimed to have participated in human radiation experimentation studies, the matter was remanded to the DOE Headquarters Freedom of Information and Privacy Group so that a search could be made for relevant documents.

Refund Application

Allied Signal, Inc., 2/25/97, RR272-247

The DOE partially granted a Motion for Reconsideration filed on behalf of Allied Signal, Inc., in the crude oil overcharge refund proceeding conducted under 10 CFR Part 205, Subpart V. Allied Signal's Motion requested a refund for its purchases of cumene during the crude oil refund period. The DOE found that cumene is not an eligible product in this proceeding. However, Allied Signal showed, through price escalation clauses in its contracts for cumene purchases, that it incurred the crude oil overcharges which are presumed in the benzene component of cumene. Therefore, Allied Signal was granted a refund based on the number of benzene gallons used in the production of the cumene it purchased.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

CRUDE OIL SUPPLEMENTAL REFUND DIST	RB272-00103	2/25/97
FRANKLIN COUNTY COOPERATIVE	RK272-04183	2/25/97
LONG BROTHERS ROOFING & WATER ET AL	RK272-03508	2/25/97
MELVIN BOOTS	RK272-03346	2/25/97
ALLEN BOOTS	RK272-03358
ALLEN BOOTS	RK272-03347
R.W. MILLER & SONS, INC. ET AL	RG272-00816	2/26/97

Dismissals

The following submissions were dismissed:

Name	Case No.
BURKE GRADING & PAVING, INC	RG272-988
CASS-CLAY CREAMERY, INC	RG272-692
FAIRMOUNT CHEMICAL CO	RG272-1003
JOHNSON PAVING CO., INC	RG272-986
VARIETY WHOLESALERS, INC	RK272-4199

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